

to present oral testimony or witnesses at the hearing, the Respondent shall include a request to do so with the request for an informal hearing. The request to present oral testimony or witnesses shall specify the names of the witnesses and the general nature of their expected testimony. Failure to request a hearing shall constitute a waiver of any right to a hearing and failure to request the opportunity to present oral testimony or witnesses shall constitute a waiver of any right or opportunity to present oral testimony or witnesses.

(3) *Effective date.* Unless otherwise ordered by the OCC, the dismissal shall remain in effect while a request for reinstatement is pending.

(c) *Order for informal hearing.* Upon receipt of a timely written request from a Respondent for an informal hearing on the portion of a directive requiring a bank to dismiss from office any director or senior executive officer, the OCC shall issue an order directing an informal hearing to commence no later than 30 days after receipt of the request, unless the Respondent requests a later date. The hearing shall be held in Washington, DC, or at such other place as may be designated by the OCC, before a presiding officer(s) designated by the OCC to conduct the hearing.

(d) *Hearing procedures.* (1) A Respondent may appear at the hearing personally or through counsel. A Respondent shall have the right to introduce relevant written materials and to present oral argument. A Respondent may introduce oral testimony and present witnesses only if expressly authorized by the OCC or the presiding officer(s). Neither the provisions of the Administrative Procedure Act governing adjudications required by statute to be determined on the record nor the Uniform Rules of Practice and Procedure in subpart A of this part apply to an informal hearing under this section unless the OCC orders that such procedures shall apply.

(2) The informal hearing shall be recorded, and a transcript furnished to the Respondent upon request and payment of the cost thereof. Witnesses need not be sworn, unless specifically requested by a party or the presiding

officer(s). The presiding officer(s) may ask questions of any witness.

(3) The presiding officer(s) may order that the hearing be continued for a reasonable period (normally five business days) following completion of oral testimony or argument to allow additional written submissions to the hearing record.

(e) *Standard for review.* A Respondent shall bear the burden of demonstrating that his or her continued employment by or service with the bank would materially strengthen the bank's ability:

(1) To become adequately capitalized, to the extent that the directive was issued as a result of the bank's capital level or failure to submit or implement a capital restoration plan; and

(2) To correct the unsafe or unsound condition or unsafe or unsound practice, to the extent that the directive was issued as a result of classification of the bank based on supervisory criteria other than capital, pursuant to section 38(g) of the FDI Act.

(f) *Recommendation of presiding officer.* Within 20 calendar days following the date the hearing and the record on the proceeding are closed, the presiding officer(s) shall make a recommendation to the OCC concerning the Respondent's request for reinstatement with the bank.

(g) *Time for decision.* Not later than 60 calendar days after the date the record is closed or the date of the response in a case where no hearing was requested, the OCC shall grant or deny the request for reinstatement and notify the Respondent of the OCC's decision. If the OCC denies the request for reinstatement, the OCC shall set forth in the notification the reasons for the OCC's action.

### Subpart O—Civil Money Penalty Inflation Adjustments

SOURCE: 62 FR 3200, Jan. 22, 1997, unless otherwise noted.

#### § 19.240 Inflation adjustments.

The maximum amount of each civil money penalty within the OCC's jurisdiction is adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note) as follows:

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U.S. code citation	Description	Adjusted maximum penalty
12 U.S.C. 93(b), 504, 1817(j)(16), 1818(i)(2), and 1972(2)(F).	Tier 1 .....	5,500
	Tier 2 .....	27,500
	Tier 3 .....	1,100,000
12 U.S.C. 164 and 3110(c) .....	Tier 1 .....	2,000
	Tier 2 .....	22,000
	Tier 3 .....	1,100,000
12 U.S.C. 1832(c) and 3909(d)(1) .....	.....	1,100
12 U.S.C. 1884 .....	.....	110
12 U.S.C. 3110(a) .....	.....	27,500
15 U.S.C. 78u-2(b) .....	Tier 1 (natural person) .....	5,500
	Tier 1 (other person) .....	55,000
	Tier 2 (natural person) .....	55,000
	Tier 2 (other person) .....	275,000
	Tier 3 (natural person) .....	110,000
	Tier 3 (other person) .....	550,000
42 U.S.C. 4012a(f)(5) .....	Per violation .....	350
	Per year .....	105,000

### § 19.241 Applicability.

The adjustments in § 19.240 apply to violations that occur after January 22, 1997.

## PART 21—MINIMUM SECURITY DEVICES AND PROCEDURES, REPORTS OF SUSPICIOUS ACTIVITIES, AND BANK SECRECY ACT COMPLIANCE PROGRAM

### Subpart A—Minimum Security Devices and Procedures

Sec.

21.1 Purpose and scope of subpart A of this part.

21.2 Designation of security officer.

21.3 Security program.

21.4 Report.

### Subpart B—Reports of Suspicious Activities

21.11 Suspicious Activity Report.

### Subpart C—Procedures for Monitoring Bank Secrecy Act Compliance

21.21 Bank Secrecy Act compliance.

AUTHORITY: 12 U.S.C. 93a, 1818, 1881-1884, and 3401-3422; 31 U.S.C. 5318.

### Subpart A—Minimum Security Devices and Procedures

SOURCE: 56 FR 29564, June 28, 1991, unless otherwise noted.

### § 21.1 Purpose and scope of subpart A of this part.

(a) This subpart is issued by the Comptroller of the Currency pursuant

to section 3 of the Bank Protection Act of 1968 (12 U.S.C. 1882) and is applicable to all national banking associations and all banks located in the District of Columbia subject to the supervision of the Office of the Comptroller of the Currency. It requires each bank to adopt appropriate security procedures to discourage robberies, burglaries, and larcenies and to assist in identifying and apprehending persons who commit such acts.

(b) It is the responsibility of a bank's board of directors to comply with this regulation and ensure that a security program which equals or exceeds the standards prescribed by this part is developed and implemented for the bank's main office and branches (as the term "branch" is used in 12 U.S.C. 36).

### § 21.2 Designation of security officer.

Within 30 days after the opening of a new bank, the Bank's board of directors shall designate a security officer who shall have the authority, subject to the approval of the board of directors, for immediately developing and administering a written security program to protect each banking office from robberies, burglaries, and larcenies and to assist in identifying and apprehending persons who commit such acts.

(Approval by the Office of Management and Budget under control number 1557-0180)

### § 21.3 Security program.

(a) *Contents of security program.* The security program shall: